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*Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108*

Advisory Opinion

AO-02-30
June 24, 2002

Thomas Brophy, Esq.
Senator Robert Creedon's Office
State House – Room 413C
Boston, MA 02133

Re: Testimonial for Incumbent Candidate

Dear Mr. Brophy:

This letter is in response to your May 20, 2002 request for guidance regarding a testimonial to honor an incumbent city candidate.

Brockton City Councilor Paul V. Studenski was recently re-elected to serve through 2003. You have received inquiries from individuals interested in hosting a testimonial to honor Councilor Studenski for his fifty years of public service. You are familiar with OCPF's AO-01-21, an advisory opinion regarding a testimonial that was contemplated for an outgoing mayor, and have asked the following questions:

QUESTION

Does AO-01-21 apply to testimonials recognizing years of service for incumbent candidates as well as testimonials for retiring candidates?

RESPONSE

Yes. As we stated in AO-01-21:

A testimonial is any event held in appreciation of an individual's service or achievement. Such tributes are subject to the campaign finance law where they are given in honor of a political candidate and involve "fundraising activity ... held on behalf of" the candidate. This occurs when the candidate or his political committee derives "money or anything of value from the event." Under these circumstances the proceeds and expenses related to the testimonial are deemed to be

reportable “contributions” and “expenditures” *received or made “ on behalf of the candidate”* and all of the provisions of the campaign finance law would need to be complied with.

The advice given in AO-01-21, applies to any type of testimonial or fundraiser where tickets are sold to benefit a political “candidate.” A “candidate” includes anyone who (1) holds elective public office at the time testimonial proceeds are raised or spent; (2) has, personally or through an agent, received campaign contributions or made expenditures to become elected or nominated for public office; (3) has a political committee organized on his behalf; or (4) has taken steps in accordance with the law to qualify for nomination or election to office. See M.G.L. c. 55, § 1.

QUESTION

May a candidate receive a gift from the proceeds of a testimonial held on his behalf?

RESPONSE

No, if by a gift you mean “money or anything of value.” It would be inconsistent with the campaign finance law to use the proceeds raised by a testimonial for the candidate or any other person’s personal use.

As we stated in AO-01-21, however, a candidate, who is the guest of honor of a testimonial, may be presented with a “certificate, plaque or other token keepsake” in appreciation of past service or to otherwise memorialize the occasion. OCPF recognizes that it is common for the hosts of a testimonial to present the guest of honor with a memento of the event. Such an offering would not run afoul of the campaign finance law as long as it something nominal, a symbolic or sentimental gesture, as opposed to goods or services with an ascertainable market value intended to provide a material benefit to the candidate.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of the representations in your e-mail. You may wish to contact the Ethics Commission to determine if the testimonial would raise any issues under the ethics law.

Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan
Director